

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 440 OF 2005**

Shri. Prabhakar Gajanan Shirgurkar ...Petitioner

Versus

M/s. Jamanadas Premaji & Co. & Anr ...Respondents

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Mr. Walimbe i/b Umesh Mankapure, Advocate for
Petitioner

Mr. S.S. Patwardhan, Adv. for Respondent No.1.

Ms. S.V. Gajare, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 19TH OCTOBER, 2005

P. C. :-

1. Heard the learned advocate for the petitioner, the learned advocate for respondent i.e. original complainant and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of process issued against him in Summary Criminal Case No. 1093 of 2001 which is pending in the Court of learned Chief Judicial Magistrate, First Class, Sangli. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr**, reported in **2005(3) Mh.L.J. 778**, in my opinion, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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